

STATE OF SOUTH CAROLINA)

In the Court of Common Pleas

County of Colleton)

08-CP-15-1038

Anthony La'Mar Brown #251490)

Full name and prison number, if any, of applicant.)

v.)

State of South Carolina)

Name of Respondent)

Colleton County)

APPLICATION FOR

POST-CONVICTION RELIEF

2008 NOV - 6 PM 2:31

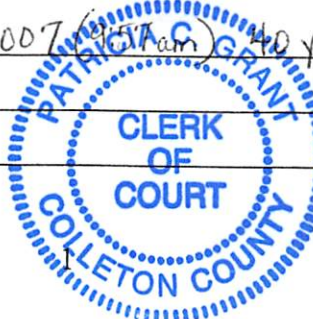
INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly, handwritten, or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make it clear to which question any such continued answer refers.

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicant should, therefore, exercise care to assure that all answers are true and correct.

If the applicant is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which applicant was convicted.

- Place of detention Perry Corr. Inst. Q1 B/204, 430 Oaklawn Rd., Pelzer, S.C. 29669
- Name and location of Court which imposed sentence Colleton County General Sessions Court. P.O. Box 620 Walterboro, S.C. 29488
- The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - ~~04GS15-0420~~ (Murder) # 04GS15-0420
 - ~~04GS15-0421~~ (Armed Robbery) # 04GS15-0421
 -
- The date upon which sentence was imposed and the terms of the sentence:
 - Tuesday, March 13, 2007 (11:57 AM) 40 yrs & 30 yrs concurrent.
 -
 -



CERTIFIED TRUE COPIES OF RECORDS

Patricia C. Grant
CLERK OF COURT, COMMON PLEAS COURT
COLLETON COUNTY, SOUTH CAROLINA
DATE: 12/1/08

5. Check whether a finding of guilty was made

✓ (a) after a plea of guilty YES

(b) after a plea of not guilty N/A

(c) after a plea of nolo contendere N/A

6. Did you appeal from the judgment of conviction or the imposition of sentence? YES

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

i. S.C. Court of Appeals (Direct Appeal)

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. S.C. Court of Appeals — Dismissed & Denied.

ii. _____

iii. _____

(c) the date of each such result:

i. Submitted July 1, 2008 — Filed July 11, 2008

ii. Unpublished Opinion No. 2008-UP-365

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. Unpublished Opinion No. 2008-UP-365

ii. _____

iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

(a) N/A

(b) _____

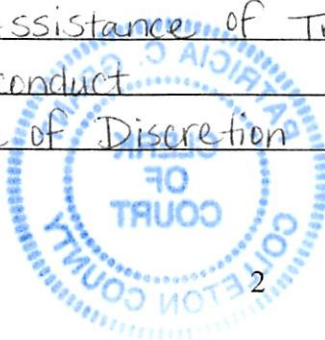
(c) _____

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Ineffective Assistance of Trial Counsel

(b) Prosecutor Misconduct

(c) Judge Abuse of Discretion



10. State concisely and in the same order the facts which support each of the grounds set out in (9)

(a) (See Attachment) AI/AII

(b)

(c)

11. Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law ?

N/A

(b) any petitions in State or Federal Courts for habeas corpus or post-conviction relief?

N/A

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7) N/A

(d) any other petitions, motions or applications in this or any other Court?

N/A

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i.

ii.

iii.

iv.

N/A

(b) the name and location of the Court in which each was filed:

i.

ii.

iii.

iv.

N/A

(c) the disposition thereof:

i.

ii.

iii.

iv.

N/A

Ineffective Assistance of Trial Counsel

- 1.) Failure to Subpoena witnesses Known at the time of guilty plea.
- 2.) Failure to properly investigate & interview above witnesses.
- 3.) Failure to suppress insufficient warrants/indictments, and Grand Jury panel.
- 4.) Failure to Communicate.
- 5.) Failure to advise defendant of rights/consequences of pleading guilty.
- 6.) Failure to make specific Brady requests which violated appellate's Due Process.
- 7.) Trial counsel knowingly and willfully withheld evidence that deprived the applicant of his right to due process, by not giving him a fair chance to exercise his right to defend his case.

A-(II)

Ineffective Assistance of Trial Counsel

- 8) Counsel's performance fell below an objective standard of reasonableness, and, but for counsel's errors there is a reasonable probability that the result at trial would have been different.
- 9) Failure to comply to the mandate set forth in advising the voluntariness of the guilty plea phase.

Prosecutorial Misconduct

- 1) Failure to disclose deal agreement made by Co-Defendants/witnesses.

Judge Abuse of Discretion

- 1) Trial Judge erred/abused it's discretion when:
 - a) It failed to sustain during the guilty plea phase that the applicant's plea was given freely & voluntary.
 - b) It failed to give a complete "competency test" to insure applicant's competency to plea guilty.

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____ N/A
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____ N/A
- iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? NO

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. _____
- ii. _____ N/A
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) Could not be raised on direct appeal.
- (b) _____
- (c) _____

16. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? YES
- (b) your trial, if any? N/A
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?
YES
- (e) preparation, presentation or consideration of any petitions, motions, or application with respect to this conviction, which you filed? N/A

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. Kenneth L. Tootle, P.O. Box 1321, Beaufort, SC. 29901
- ii. Robert M. Pachak, P.O. Box 11589, Columbia, S.C. 29211
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Trial
- ii. Direct Appeal
- iii. _____

18. State clearly the relief you seek in filing this application.

Applicant is seeking that the Trial Court's sentence and conviction be vacated; new trial or time-cut.

19. Are you now under sentence from any other court that you have not challenged?

No.

STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON) VERIFICATION

I, ANTHONY LA'MAR BROWN, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

X Anthony Brown

Sworn to and subscribed before me

X This 18th day of September, 2008

Steven P. Melanchy L.S.

Notary Public for South Carolina

My Commission Expires January 7, 2016

**APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, ANTHONY LA'MAR BROWN, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty or perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of proceeding or give security therefor.

X Anthony Brown
Applicant

X Sworn to and subscribed before me

This 18th day of September, 2008

Steven P. Melanchy L.S.

Notary Public for South Carolina

My Commission Expires: January 7, 2016

State Of South Carolina
County Of Colleton

In The Court Of Common Pleas
For The 14th Judicial Circuit

Anthony L. Brown,)
 plaintiff)
)
 vs.)
_____)
State Of S.C. ,)
 defendant)

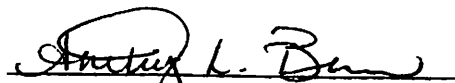
08-CP-15-1038

MOTION TO COMPEL

ORDER GRANTING OR DENYING MOTION

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Comes now, the above captioned plaintiff, and moves before this Honorable Court for an order compelling the Solicitor's Office for the 14th circuit to provide the plaintiff with a full and complete copy of all materials in their possession that fall under Rule 5 of the SCRPC and any other discoverable material relating to the plaintiff and his codefendants. The plaintiff has requested these same materials from the Solicitor's Office by writing Terry K. Alexander at P.O. box 620, Walterboro, S.C. 29488; as well as by writing Kenneth L. Tootle; the plaintiff's counsel who represented him in the above referenced case, at P.O. Box 1321, Beaufort, S.C. 29901. However; both have ignored the plaintiff's request. During an institutional transfer, when the plaintiff was being transferred from one facility to another, the SCDC lost the plaintiff's legal materials, and as the plaintiff is now going through the appeals and PCR process it is imperative that he have all of the documentation from his case. The plaintiff contends that he has tried numerous times to obtain the aforementioned materials, to no avail, and feels that an order from this Honorable Court ordering the Solicitor's Office to provide the plaintiff with the requested materials is the only way the issue will get resolved. WHEREFORE, having shown just cause for the order requested, the plaintiff prays this Honorable Court grant the plaintiff's motion to compel.



Anthony L. Brown, plaintiff # 251490

Perry C.I. Q - 1 - B - 204

430 Oaklawn Road

Pelzer, S.C. 29669

ORDER GRANTING OR DENYING MOTION

___ The Motion to compel is hereby granted

The Solicitor's Office is hereby ordered to provide the
plaintiff, Anthony L. Brown, with the requested documentation.

___ The Motion to compel is hereby denied

Date _____

signature of judge _____

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF Colleton14th Cir. General Sessions Court

Plaintiff(s)

vs.

ANTHONY La'MAR BROWN

Defendant(s)

CIVIL ACTION COVERSHEET

08 - CP - 15 - 1038

(Please Print)

Submitted By: Anthony L. Brown # 251490Address: P.O. Box 223, 430 Oaklawn Rd.
Pelzer, S.C. 29669

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR (certificate attached).

NATURE OF ACTION (Check One Box Below)

2009 MAR 5 PM

- | | | | |
|--|---|---|--|
| Contracts
<input type="checkbox"/> Constructions (100)
<input type="checkbox"/> Debt Collection (110)
<input type="checkbox"/> Employment (120)
<input type="checkbox"/> General (130)
<input type="checkbox"/> Breach of Contract (140)
<input type="checkbox"/> Other (199) | Torts - Professional Malpractice
<input type="checkbox"/> Dental Malpractice (200)
<input type="checkbox"/> Legal Malpractice (210)
<input type="checkbox"/> Medical Malpractice (220)
<input type="checkbox"/> Notice/ File Med Mal (230)
<input type="checkbox"/> Other (299) | Torts - Personal Injury
<input type="checkbox"/> Assault/Slander/Libel (300)
<input type="checkbox"/> Conversion (310)
<input type="checkbox"/> Motor Vehicle Accident (320)
<input type="checkbox"/> Premises Liability (330)
<input type="checkbox"/> Products Liability (340)
<input type="checkbox"/> Personal Injury (350)
<input type="checkbox"/> Wrongful Death (360)
<input type="checkbox"/> Other (399) | Real Property
<input type="checkbox"/> Claim & Delivery (400)
<input type="checkbox"/> Condemnation (410)
<input type="checkbox"/> Foreclosure (420)
<input type="checkbox"/> Mechanic's Lien (430)
<input type="checkbox"/> Partition (440)
<input type="checkbox"/> Possession (450)
<input type="checkbox"/> Building Code Violation (460)
<input type="checkbox"/> Other (499) |
| <input checked="" type="checkbox"/> Inmate Petitions
<input type="checkbox"/> PCR (500)
<input type="checkbox"/> Sexual Predator (510)
<input type="checkbox"/> Mandamus (520)
<input type="checkbox"/> Habeas Corpus (530)
<input type="checkbox"/> Other (599) | Judgments/Settlements
<input type="checkbox"/> Death Settlement (700)
<input type="checkbox"/> Foreign Judgment (710)
<input type="checkbox"/> Magistrate's Judgment (720)
<input type="checkbox"/> Minor Settlement (730)
<input type="checkbox"/> Transcript Judgment (740)
<input type="checkbox"/> Lis Pendens (750)
<input type="checkbox"/> Other (799) | Administrative Law/Relief
<input type="checkbox"/> Reinstate Driver's License (800)
<input type="checkbox"/> Judicial Review (810)
<input type="checkbox"/> Relief (820)
<input type="checkbox"/> Permanent Injunction (830)
<input type="checkbox"/> Forfeiture (840)
<input type="checkbox"/> Other (899) | Appeals
<input type="checkbox"/> Arbitration (900)
<input type="checkbox"/> Magistrate-Civil (910)
<input type="checkbox"/> Magistrate-Criminal (920)
<input type="checkbox"/> Municipal (930)
<input type="checkbox"/> Probate Court (940)
<input type="checkbox"/> SCDOT (950)
<input type="checkbox"/> Worker's Comp (960)
<input type="checkbox"/> Zoning Board (970)
<input type="checkbox"/> Administrative Law Judge (980)
<input type="checkbox"/> Public Service Commission (990)
<input type="checkbox"/> Employment Security Comm (991)
<input type="checkbox"/> Other (999) |
| Special Complex Other
<input type="checkbox"/> Environmental (600) <input type="checkbox"/> Pharmaceuticals (630)
<input type="checkbox"/> Automobile Arb (610) <input type="checkbox"/> Unfair Trade Practices (640)
<input type="checkbox"/> Medical (620) <input type="checkbox"/> Out-of-State Depositions (650)
<input type="checkbox"/> Other (690) | | | |

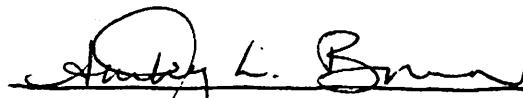
Submitting Party Signature: Anthony BrownDate: 10/02/08

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Dear Clerk,

Enclosed, please find a motion to Compel for filing in your office. Please forward this motion to the Chief Administrative Judge for the 14th Circuit, and return a clocked-in copy to me at the below listed address. Thanking you, I am,

Sincerely yours,



Anthony L. Brown # 251490
P.C.I./Q-1-B # 204
430 Oaklawn Rd.
Pelzer, S.C. 29669

P.S.

Also, Clerk, please find included an "Application for post-conviction RELIEF," on my behalf.

With Kindest Regards.